

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOEL TOLBERT,  
Plaintiff,  
v.

ANTIOCH POLICE DEPARTMENT, et al.,  
Defendants.

Case No. [22-cv-02026-JSC](#)

**ORDER DENYING MOTION TO  
COMPEL; GRANTING EXTENSION  
OF TIME; SCHEDULING REPLY  
BRIEF**

Re: Dkt. Nos. 34, 47

Plaintiff filed a motion to compel discovery that is identical to his prior motion to compel discovery. (*Compare* ECF No. 32 *and* ECF No. 34.) The motion was denied because Plaintiff did not certify that he had in good faith discussed or attempted to discuss with Defendants his outstanding discovery requests to try to obtain the discovery without a motion. (ECF No. 33 (citing Fed. R. Civ. P. 37(a)(1) of the Federal Rules of Civil Procedure (a motion to compel must “include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action”).) Plaintiff has not provided this certification in connection with the present motion either. (ECF No. 34.) Therefore, the present compel is also DENIED without prejudice to filing a motion to compel that complies with Rule 37(a)(1).

Good cause appearing, Plaintiff’s motion for an extension of time to file an opposition to Defendants’ motion to dismiss is GRANTED. His opposition is deemed timely. Defendants shall file a reply brief on or before September 6, 2023. This order resolves docket numbers 34 and 47.

**IT IS SO ORDERED.**

Dated: August 25, 2023

  
JACQUELINE SCOTT CORLEY  
United States District Judge